

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 12, between lines 3 and 4, begin a new paragraph and insert:
2 "SECTION 8. IC 5-1-5-1, AS AMENDED BY P.L.2-2006,
3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2009]: Sec. 1. The following terms as used in this
5 chapter have the following meanings:
6 (a) "Governing body" means the council, commission, board of
7 commissioners, board of directors, board of trustees, or other
8 legislative body in which the legislative powers of the issuing body are
9 vested.
10 (b) "Issuing body" means the state of Indiana, its agencies,
11 commissions, universities, colleges, institutions, political subdivisions,
12 counties, school corporations, hospital associations, municipal and
13 quasi-municipal corporations, special taxing districts, and any
14 corporation which has issued bonds payable directly or indirectly from
15 lease rentals payable by any of the foregoing issuing bodies, now or
16 hereafter existing under the laws of the state.
17 (c) "Bond" means any revenue bond, general obligation bond, or
18 advance refunding bond.
19 (d) "Revenue bond" means any bond note, warrant, certificate of
20 indebtedness, or other obligation, including a certificate or other
21 evidence of participation in the lessor's interest in and rights under a
22 lease, for the payment of money issued by an issuing body or any
23 predecessor of any issuing body which is payable from designated
24 revenues, rental payments, special benefits, taxes, or a special fund but

1 excluding any obligation constituting an indebtedness within the
 2 meaning of the constitutional debt limitation and any obligation
 3 payable solely from special assessments or special assessments and a
 4 guaranty fund.

5 (e) "General obligation bond" means any bond, note, warrant,
 6 certificate of indebtedness, or other obligation of an issuing body which
 7 constitutes an indebtedness within the meaning of the constitutional
 8 debt limitation.

9 (f) "Advance refunding bonds" means bonds issued for the purpose
 10 of refunding bonds first subject to redemption or maturing after the
 11 date of the advance refunding bonds.

12 (g) "Ordinance" means an ordinance of a city or town or resolution
 13 or other instrument by which the governing body of the issuing body
 14 exercising any power hereunder takes formal action and adopts
 15 legislative provisions and matters of some permanency.

16 (h) "Corporation which has issued bonds" means a corporation
 17 organized under IC 20-47-2 or IC 20-47-3, the laws of any state of the
 18 United States of America or of the United States of America, including
 19 any bank, trust company, or national association serving as a trustee
 20 under an indenture providing for issuance of bonds.

21 (i) **"Local issuing body" means an issuing body that is:**

22 **(1) a political subdivision (as defined in IC 36-1-2-13);**

23 **(2) a district (as defined in IC 6-1.1-21.2-5); or**

24 **(3) a corporation or other entity that:**

25 **(A) is not a body corporate and politic established as an**
 26 **instrumentality of the state; and**

27 **(B) has issued bonds that are payable directly or indirectly**
 28 **from lease rentals payable by a political subdivision or**
 29 **district described in subdivision (1) or (2).**

30 (j) **"Special benefit taxes" means a special tax levied and**
 31 **collected on an ad valorem basis on property for the purpose of**
 32 **financing local public improvements that:**

33 **(1) are not political or governmental in nature; and**

34 **(2) are of special benefit to the residents and property of the**
 35 **area.**

36 (k) **"Tax increment revenues" means an allocation of:**

37 **(1) ad valorem property taxes;**

38 **(2) state or local adjusted gross income taxes; or**

39 **(3) state or local gross retail and use taxes;**

40 **to a redevelopment district that did not impose the taxes based on**
 41 **an increase in the assessed value, wages, sales, or other economic**
 42 **activity occurring in a designated area. The term includes**
 43 **allocations described in IC 5-28-26-9, IC 6-1.1-21.2-10,**
 44 **IC 12-19-1.5-7, IC 36-7-26-10, IC 36-7-27-8, IC 36-7-31-6, and**
 45 **IC 36-7-31.3-4.**

46 (l) **"Redevelopment district" refers to the following:**

47 **(1) An airport development zone under IC 8-22-3.5.**

(2) A redevelopment district established under:

(A) IC 36-7-14; or

(B) IC 36-7-15.1.

(3) A special taxing district described in:

(A) IC 36-7-14.5-12.5(d); or

(B) IC 36-7-30-3(b).

(4) Another public entity to which tax increment revenues are allocated.

(†) (m) Words used in this chapter importing singular or plural number may be construed so that one (1) number includes both.

SECTION 9. IC 5-1-5-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 17. (a) This section applies to bonds that are:**

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) The last date permitted under an agreement for the payment of principal and interest on bonds that are issued to retire or otherwise refund other revenue bonds or general obligation bonds may not extend beyond the maximum term of the bonds being refunded.

SECTION 10. IC 5-1-5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 18. (a) This section applies to bonds that are:**

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(c) Savings (as computed under section 2 of this chapter) that accrue from the issuance of bonds to retire or otherwise refund other bonds may be used only for the following purposes:

(1) To maintain a debt service reserve fund for the refunding bonds at the level required under the terms of the refunding bonds, if the local issuing body adopts an ordinance, a resolution, or an order authorizing that use of the proceeds or earnings.

(2) To pay the principal or interest, or both, on:

(A) the refunding bonds; or

(B) other bonds, if the issuing body approves an ordinance authorizing the use of the savings to pay principal or interest on other bonds.

(3) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax increment revenues imposed by or allocated to the local issuing body.

SECTION 11. IC 5-1-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. ~~As used in The~~ **definitions in this section apply throughout** this chapter:

(1) "Bonds" has the same definition that the term is given in IC 5-1-11-1.

(2) "Local issuing body" has the meaning set forth in IC 5-1-5-1.

(3) "Political subdivision" has the same definition that the term is given in IC 36-1-2-13.

(4) "Special benefit taxes" has the meaning set forth in IC 5-1-5-1.

(5) "Tax increment revenues" has the meaning set forth in IC 5-1-5-1.

SECTION 12. IC 5-1-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Notwithstanding any other law, whenever:

(1) bonds are issued by any ~~political subdivision~~ **local issuing body** in the state of Indiana for any lawful purpose or project;

(2) the purpose or project for which the bonds were issued has been accomplished or abandoned; and

(3) a surplus remains from the proceeds of the bonds or investment earnings derived from the proceeds of those bonds;

the ~~political subdivision~~ **local issuing body** may use the surplus only in the manner prescribed by subsection (b), ~~or~~ (c), **or (d)**.

(b) The legislative body **or other governing body** of any such ~~political subdivision~~ **local issuing body** may by an order, ordinance, or resolution entered of record direct the disbursing officer of such ~~political subdivision~~ **local issuing body** to transfer the surplus bond proceeds or investment earnings to the fund of the ~~political subdivision~~ **local issuing body** pledged to the payment of principal and interest on those bonds, and upon such order, ordinance, or resolution being made, the disbursing officer shall make such transfer. Thereafter such funds transferred shall be used for the payment of the bonds to which the surplus bond proceeds or investment earnings are attributable or interest due for such bonds.

(c) **Surplus bond proceeds or investment earnings may be used by a local issuing body for the following purposes:**

(1) **To maintain a debt service reserve fund for the bonds to**

1 **which the surplus bond proceeds or investment earnings are**
 2 **attributable, at the level required under the terms of the**
 3 **bonds, if the local issuing body adopts an ordinance, a**
 4 **resolution, or an order authorizing that use of the proceeds or**
 5 **earnings.**

6 **(2) To pay the principal or interest, or both, on any other**
 7 **bonds of the local issuing body, if the local issuing body adopts**
 8 **an ordinance, a resolution, or an order authorizing the use of**
 9 **the surplus proceeds to pay principal or interest on the bonds.**

10 **(3) To reduce the rate or amount of ad valorem property**
 11 **taxes, special benefit taxes on property, or tax increment**
 12 **revenues imposed by or allocated to the local issuing body.**

13 ~~(c)~~ **(d) This section applies to bonds that are not payable from**
 14 **ad valorem property taxes, special benefit taxes on property, or tax**
 15 **increment revenues derived from property taxes.** Surplus bond
 16 proceeds or investment earnings may be used by a ~~political subdivision~~
 17 **local issuing body** for the same purpose or type of project for which
 18 the bonds were originally issued, if:

19 (1) the fiscal officer of the ~~political subdivision~~ **local issuing**
 20 **body** certifies before or at the time of that use that the surplus was
 21 not anticipated at the time of issuance of the bonds; and

22 (2) the board or legislative body responsible for issuing the bonds
 23 takes action approving the use of surplus bond proceeds or
 24 investment earnings for the same purpose or type of project for
 25 which the bonds were originally issued.

26 SECTION 13. IC 5-1-14-1.3 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 28 JANUARY 1, 2009]: **Sec. 1.3. The following definitions apply**
 29 **throughout this chapter:**

30 (1) **"Local issuing body" has the meaning set forth in**
 31 **IC 5-1-5-1.**

32 (2) **"Special benefit taxes" has the meaning set forth in**
 33 **IC 5-1-5-1.**

34 (3) **"Tax increment revenues" has the meaning set forth in**
 35 **IC 5-1-5-1.**

36 SECTION 14. IC 5-1-14-10 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) If an issuer
 38 has issued obligations under a statute that establishes a maximum term
 39 or repayment period for the obligations, notwithstanding that statute,
 40 the issuer may continue to make payments of principal, interest, or
 41 both, on the obligations after the expiration of the term or period if
 42 principal or interest owed to owners of the obligations remains unpaid.

43 (b) This section does not authorize the use of revenues or funds to
 44 make payments of principal and interest other than those revenues or
 45 funds that were pledged for the payments before the expiration of the
 46 term or period.

(c) Except as otherwise provided by this section, the maximum term or repayment period for obligations issued after June 30, 2008, that are wholly or partially payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes may not exceed:

(1) the maximum applicable period under federal law, for obligations that are issued to evidence loans made or guaranteed by the federal government or a federal agency;

(2) twenty-five (25) years, for obligations that are wholly or partially payable from tax increment revenues derived from property taxes; or

(3) twenty (20) years, for obligations that are not described in subdivision (1) or (2) and are wholly or partially payable from ad valorem property taxes or special benefit taxes on property.

SECTION 15. IC 5-1-14-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 16. (a) This section applies to obligations that are:

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including obligations that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) An agreement for the issuance of obligations must provide for the payment of principal and interest on the obligations in nearly equal payment amounts and at regular designated intervals over the maximum term of the obligations except to the extent that:

(1) interest for a particular repayment period has been paid from the proceeds of the obligations under section 6 of this chapter; or

(2) the local issuing body authorizes a different payment schedule to:

(A) maintain substantially equal payments, in the aggregate, in any period in which the local issuing body pays the interest and principal on outstanding obligations;

(B) provide for the payment of principal on the obligations in amounts and at intervals that will produce an aggregate amount of principal payments greater than or equal to the aggregate amount that would otherwise be paid as of the same date; or

(C) with respect to obligations wholly or partially payable from tax increment revenues derived from property taxes, provide for the payment of principal and interest in

varying amounts over the term of the obligations as necessary due to the variation in the amount of tax increment revenues available for those payments.

SECTION 16. IC 5-1-16-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 42. (a) When the authority, the board of trustees or board of managers of the hospital, the board of commissioners of the county, and a majority of the county council have agreed upon the terms and conditions of any lease proposed to be entered into under section 38 or 39 of this chapter, and before the final execution of the lease, the county auditor shall give notice by publication of a public hearing to be held in the county by the board of commissioners. The hearing shall take place on a day not earlier than ten (10) days after the publication of the notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the county. The notice shall do the following:

- (1) Name the day, place, and hour of the hearing.
- (2) Set forth a brief summary of the principal terms of the lease agreed upon, including the character and location of the property to be leased, the lease rental to be paid, and the number of years the contract is to be in effect.
- (3) State a location where the proposed lease, drawings, plans, specifications, and estimates may be examined.

The proposed lease and the drawings, plans, specifications, and estimates of construction cost for the building shall be open to inspection by the public during the ten (10) day period and at the hearing. All interested persons shall have a right to be heard at the hearing on the necessity for the execution of the lease and whether the lease rental under the lease is fair and reasonable. The hearing may be adjourned to a later date with the place of the hearing fixed prior to adjournment. Following the hearing, the board of commissioners may either authorize the execution of the lease as originally agreed upon or may make modifications that are agreed upon by the authority, the board of trustees or board of managers of the hospital, and the county council. The authorization shall be by an order that is entered in the official records of the board of commissioners. The lease contract shall be executed on behalf of the county by the board of commissioners.

(b) If the execution of the lease as originally agreed upon or as modified by agreement is authorized, notice of the signing of the lease shall be given on behalf of the county by publication one (1) time in a newspaper of general circulation printed in the English language and published in the county. Except as provided in subsection (d), ten (10) or more taxpayers in the county whose tax rate will be affected by the proposed lease and who may be of the opinion that no necessity exists for the execution of the lease or that the lease rental under the lease is not fair and reasonable may file a petition in the office of the county

1 auditor within thirty (30) days after publication of notice of the
 2 execution of the lease that sets forth the taxpayers' objections and facts
 3 supporting those objections. Upon the filing of a petition, the county
 4 auditor shall immediately certify a copy of the petition together with
 5 such other data as may be necessary in order to present the questions
 6 involved to the department of local government finance. Upon receipt
 7 of the certified petition and information, the department of local
 8 government finance shall fix a time and place in the affected county for
 9 the hearing of the matter that is not less than five (5) or more than
 10 fifteen (15) days after receipt. Notice of the hearing shall be given by
 11 the department of local government finance to the board of county
 12 commissioners and to the first ten (10) taxpayer petitioners upon the
 13 petition by certified mail sent to the addresses listed on the petition at
 14 least five (5) days before the date of the hearing.

15 (c) No action to contest the validity of the lease or to enjoin the
 16 performance of any of the terms and conditions of the lease shall be
 17 instituted at any time later than thirty (30) days after publication of
 18 notice of the execution of the lease, or if an appeal has been taken to
 19 the department of local government finance, then within thirty (30)
 20 days after the decision of the department.

21 (d) The authority for taxpayers to object to a proposed lease under
 22 subsection (b) does not apply if the authority complies with the
 23 procedures for the issuance of bonds and other evidences of
 24 indebtedness described in ~~IC 6-1.1-20-3.1~~ and ~~IC 6-1.1-20-3.2~~.
 25 **IC 6-1.1-20."**

26 Renumber all SECTIONS consecutively.

27 (Reference is to HB 1001 as printed January 17, 2008.)

Representative Welch